

county seat of said new county, and he shall appoint presiding officers, judges and clerks of election, and the election returns shall be made to the county judge of Tom Green County, who shall issue certificates to the persons elected, and shall approve the bonds of such officers and shall administer to them the oath of office.

SEC. 5. That the new county shall pay its pro rata share of the existing legal debt of the county of Tom Green, and county commissioners of the new county shall levy and set apart annually a tax that will be sufficient to speedily pay off and discharge said debt.

SEC. 6. That the new county shall be in the thirty-fifth judicial, the twenty-eighth senatorial, and the eightieth representative districts, and courts shall be held in said new county on the ——— and may continue in session one week.

SEC. 7. Whereas the county commissioners court of Tom Green County is about to levy taxes for the present year, therefore an emergency exists and an imperative public necessity requiring bills to be read on three several days be suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote of 72 yeas, no nays; and passed the senate by a vote of 25 yeas, no nays.]

Approved, March 7, 1889.

IRRIGATION.

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| <p>SEC.</p> <ol style="list-style-type: none"> 1. Unappropriated water of rivers may be diverted from its natural channel. 2. Unappropriated waters may be acquired by appropriation for the purposes hereof. 3. Right ceases on cessation of use. 4. Priority of right between appropriators. 5. Appropriators to file for record sworn statement and map. 6. Work to begin and be prosecuted to completion, when. 7. Defines the term "completion." 8. Compliance with preceding provisions deemed to relate back. 9. As to subsequent appropriators. | <p>SEC.</p> <ol style="list-style-type: none"> 10. Corporations may be formed for purposes of constructing canals, ditches, etc. 11. Corporations formed for the purposes of irrigation as herein provided may exercise the right of eminent domain. 12. Sale of water, etc. 13. Necessary bridges where roads are crossed. 14. Denouncing penalty for injuring irrigating canal, etc. 15. Corporations created for the purposes hereof may acquire lands. 16. Repealing clause. 17. Emergency clause. |
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CHAP. 88.—[S. H. B. No. 298.] An Act to encourage irrigation, and to provide for the acquisition of the right to the use of water, and for the construction and maintenance of canals, ditches, flumes, reservoirs, and wells for irrigation, and for mining, milling, and stockraising in the arid districts of Texas.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the unappropriated waters of every river or natural stream within the arid portions of the state of Texas, in which, by reason of the insufficient rainfall, irrigation is necessary for agricultural purposes, may be diverted from its natural channel for irrigation, domestic, and other beneficial uses: *Provided,* That said water shall not be diverted so as to deprive any person who claims, owns, or holds a possessory right or title to any land lying along the bank or margin of any river or natural stream of the use of the water thereof for his own domestic use.

SEC. 2. That the unappropriated waters of every river or natural stream within the arid portions of the state, as described in the preceding section of this act, are hereby declared to be the property of the public, and may be acquired by appropriation for the uses and purposes as hereinafter provided.

SEC. 3. The appropriation must be for the purposes named in this act,

and when the appropriator, or his successor in interest, ceases to use it for such purpose the right ceases.

SEC. 4. As between appropriators, the one first in time is the one first in right to such quantity of the water only as is reasonably sufficient and necessary to irrigate the land susceptible of irrigation on either side of ditch or canal.

SEC. 5. Every person, corporation, or association of persons which have constructed or may hereafter construct any ditch, canal, or reservoir, for the purposes named in this act, and taking water from any natural stream, shall, within ninety days after this act goes into effect, or within ninety days after the commencement of such construction, file and cause to be recorded in the office of the county clerk of the county where the head gate of such ditch or canal may be situated, or to which said county may be attached for judicial purposes, in a well bound book to be kept by said clerk for that purpose, a sworn statement in writing, showing the name of such ditch or canal, the point at which the head gate thereof is situated, the size of the ditch or canal in width and depth, and the carrying capacity thereof in cubic feet per second of time, the name of said stream from which said water is taken, the time when the work was commenced, and the name of the owners or owner thereof, together with a map showing the route of said ditch or canal.

SEC. 6. Within ninety days next after the filing of said statement, the party claiming the right to appropriate the water shall begin the actual construction of the proposed ditch, canal, or reservoir, and shall prosecute the work thereon diligently and continuously to completion.

SEC. 7. "Completion," as used in the preceding section, is hereby defined to be the conducting of the water in the main canal to the place of intended use.

SEC. 8. By compliance with the preceding provisions of this act the claimant's right to the use of the water relates back to the time when the work of excavation or construction was commenced on said proposed ditch, canal, or reservoir: *Provided*, That a failure to file said statement shall in no wise work a forfeiture of such heretofore acquired rights, nor prevent such claimants of such heretofore acquired rights from establishing such rights in the courts.

SEC. 9. When any person, corporation, or association of persons, by compliance with the preceding provisions of this act, shall become entitled to the use of the waters in any river or stream, it shall thereafter be unlawful for any other person, corporation, or association of persons, except for domestic use by any one entitled thereto, to so divert the flow of water in said river or stream in such manner and to the extent of depriving said person, corporation, or association of persons in priority of the use of the water to which they may be so entitled.

SEC. 10. Corporations may be formed and chartered under the provisions of this act and of the general incorporation laws of the state of Texas, for the purpose of constructing, maintaining, and operating canals, ditches, flumes, feeders, laterals, reservoirs, and wells, and of conducting, transferring, and furnishing water to all persons entitled to the same, for irrigation and domestic uses, and for the purpose of building storage reservoirs for the collection and storage of water for the uses before mentioned, and for mining, milling, and stockraising. All persons who own or hold a possessory right or title to land adjoining or contiguous to any canal, ditch, flume, or lateral, constructed and maintained under the provisions of this act, and who shall have secured a right to the use of water in said canal, ditch, flume, or lateral, shall be entitled to be supplied from such canal, ditch, flume, or lateral with water for the irrigation of such land and domestic uses: *Provided*, The party

so entitled shall first make available his said land for agricultural or grazing purposes, and shall provide cisterns, wells, or storage reservoirs for water for domestic purposes.

SEC. 11. All corporations and associations formed for the purposes of irrigation as provided in this act, are hereby granted the right of way, not to exceed one hundred feet in width, over all public, university, school, and asylum lands of the state, with the use of the rock, gravel, and timber on the right of way, for construction purposes, and may obtain the right of way over private lands by contract. Any such corporation may also obtain the right of way over private lands by condemnation by causing the damages for any private property appropriated by such corporations or associations to be assessed and paid for as provided in cases of railroads.

SEC. 12. All surplus water not used or disposed of, as provided for in the preceding sections of this act, shall be conducted back to the stream from which it was taken. And all water sold or disposed of may be measured in inches, feet, or fractional portion of the whole supply, or distributed by the hour or acre system. But any person, corporation, or association of persons shall furnish water in the way and manner named in the contract or certificate issued to the purchasers of said water, so long as water remains unsold in the ditch: *Provided*, That the commissioner of agriculture, insurance, statistics, and history shall make a report to the legislature at its next regular session, and at each regular session thereafter, as to the cost and expense attending the construction and maintenance of canals, ditches, flumes, feeders, and wells for irrigation in various parts of the state, and accompany the same with a statement of the charges made for the uses of water by canal, ditch, and well companies, and the legislature shall at such times as it deems proper, either by direct legislation or by the creation of a commissioner or water inspector or inspectors with full delegated power, control and regulate the quantity of water which may be diverted by any water company or individual, when and in the manner in which it may be diverted, and may establish and enforce all such reasonable rules and regulations necessary and proper governing and controlling such corporations and water construction companies and persons operating under the provisions of this act, and may also control, regulate, change, and fix the charges for the use of water made by such ditch, canal, and well companies.

SEC. 13. All said persons, corporations, and associations shall have the right to run along or across all roads and highways necessary in the construction of their work, and shall at all such crossings construct and maintain necessary bridges for the accommodation of the public, and shall not affect or impair the usefulness or condition of said road or highway.

SEC. 14. Any person who shall wilfully or through gross negligence injure any irrigating canal or its appurtenances, wells, or reservoirs, or who shall waste the water thereof, or shall take the water therefrom without authority, shall be deemed guilty of a misdemeanor, and for each offense shall be liable to a fine not exceeding five hundred dollars.

SEC. 15. Any corporation created and organized under the provisions of the general laws of this state or the provisions of this act for the purpose of irrigation, shall have the power to acquire lands by voluntary donation or purchase or in payment of stock or water rights, and to hold and dispose of all such lands and other property, and to borrow money for the construction, maintenance, and operation of its canals, ditches, flumes, feeders, reservoirs, and wells, and may issue bonds and mortgage its corporate property and franchises to secure the payment of any debt contracted for the same: *Provided*, All lands acquired by said corporation, except such as are used for the

construction, maintenance, and operation of said canals, ditches, laterals, feeders, reservoirs, and wells shall be alienated within twenty years from the date of acquiring said lands or be subject to judicial forfeiture.

SEC. 16. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

SEC. 17. Whereas it is necessary that irrigating canals should be built at once to afford water for irrigational purposes for the present year; therefore an emergency exists, and an imperative public necessity demands the suspension of the constitutional rule which requires a bill to be read on three several days, and that this act take effect and be in force from and after its passage.

[NOTE.—The foregoing act originated in the house, and passed the same by a vote of 69 yeas, 6 nays; and passed the senate by a vote of 21 yeas, no nays.]

Approved, March 19, 1889.

JUDGMENTS—NOTICE OF TRANSFERS OF.

- Sec. 1. Herein as to form of transfers of judgments, etc.
2. Herein as to notice.

CHAP. 89.—[S. B. No. 148.] An Act to regulate the sale and transfer of judgments of courts of record, and of causes of action or interest therein where suit has been filed thereon, and to provide for recording such transfers.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That the sale of a judgment, or any part thereof, of any court of record within this state, or the sale of any cause of action, or interest therein, after suit has been filed thereon, shall be evidenced by a written transfer, which when acknowledged in the manner and form required by law for the acknowledgment of deeds, may be filed with the papers of such suit, and when thus filed by the clerk, it shall be his duty to make a minute of said transfer on the margin of the minute book of the court where said judgment is recorded of said court, or if judgment be not rendered when such transfer is filed, the clerk shall make a minute of such transfer on the court trial docket when the suit is entered, giving briefly the substance thereof, for which services he shall be entitled to a fee of twenty-five cents, to be paid by the party applying therefor, and this section shall apply to any and all judgments, suits, claims, and causes of actions, whether assignable in law and equity or not.

SEC. 2. That when said transfer is duly acknowledged, filed, and noted as aforesaid, the same shall be full notice and valid and binding upon all persons subsequently dealing with reference to said cause of action or judgment, whether they have actual knowledge of such transfer or not.

Approved, March 26, 1889.

LANDS.

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. All surveys, etc., by virtue of valid alternate certificates reserved from mass of public domain. 2. All excesses in such surveys, etc., reserved to school fund. 3. In correction of surveys excess to belong to school fund. | <p>Sec.</p> <ol style="list-style-type: none"> 4. This act not to affect rights of third persons acquired in good faith. 5. Not to affect patented lands. 6. Emergency clause. |
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CHAP. 90.—[S. B. No. 167.] An act to provide for the ascertainment, distribution, and sale of the excesses in surveys of land made for the school fund, and to validate surveys of land as herein provided.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That all surveys and blocks of surveys heretofore made by virtue of valid alternate scrip be and the same are hereby declared to segregate from the mass of the